

## National Labor Relations Board

## § 102.19

should be filed with the Division of Judges in accordance with §102.24(a). When a motion to reschedule has been granted, the Regional Director issuing the complaint shall retain the authority to order a new date for hearing and retain the responsibility to make the necessary arrangements for conducting such hearing, including its location and the transcription of the proceedings.

[54 FR 51197, Dec. 13, 1989; 54 FR 52506, Dec. 21, 1989]

### § 102.17 Amendment.

Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the regional director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to §102.45, upon motion, by the administrative law judge designated to conduct the hearing; and after the case has been transferred to the Board pursuant to §102.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

### § 102.18 Withdrawal.

Any such complaint may be withdrawn before the hearing by the regional director on his own motion.

### § 102.19 Appeal to the general counsel from refusal to issue or reissue.

(a) If, after the charge has been filed, the regional director declines to issue a complaint or, having withdrawn a complaint pursuant to §102.18, refuses to reissue it, the regional director shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds for his action. The person making the charge may obtain a review of such action by filing an appeal with the general counsel in Washington, DC, and filing a copy of the appeal with the regional director, within 14 days from the service of the notice of such refusal to issue or reissue by the regional director, except as a shorter period is provided by §102.81. If an appeal is taken the person doing so should notify all other parties of his action, but any failure to give such notice shall not affect the validity of the appeal. The appeal shall contain

a complete statement setting forth the facts and reasons upon which it is based. A request for an extension of time to file an appeal shall be in writing and be received by the general counsel, and a copy of such request filed with the regional director, prior to the expiration of the filing period. Copies of the acknowledgment of the filing of an appeal and of any ruling on a request for an extension of time for the filing of an appeal shall be served on all parties. Consideration of an appeal untimely filed is within the discretion of the general counsel upon good cause shown.

(b) Oral presentation in Washington, DC, of the appeal issues may be permitted a party on written request made within 4 days after service of acknowledgment of the filing of an appeal. In the event such request is granted, the other parties shall be notified and afforded, without additional request, a like opportunity at another appropriate time.

(c) The general counsel may sustain the regional director's refusal to issue or reissue a complaint, stating the grounds of his affirmance, or may direct the regional director to take further action; the general counsel's decision shall be served on all the parties. A motion for reconsideration of the decision must be filed within 14 days of service of the decision, except as hereinafter provided, and shall state with particularity the error requiring reconsideration. A motion for reconsideration based upon newly discovered evidence which has become available only since the decision on appeal shall be filed promptly on discovery of such evidence. Motions for reconsideration of a decision previously reconsidered will not be entertained, except in unusual situations where the moving party can establish that new evidence has been discovered which could not have been discovered by diligent inquiry prior to the first reconsideration.

[32 FR 9548, July 1, 1967, as amended at 51 FR 23746, July 1, 1986]

## § 102.20

### ANSWER

#### **§ 102.20 Answer to complaint; time for filing; contents; allegations not denied deemed admitted.**

The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

[51 FR 23746, July 1, 1986]

#### **§ 102.21 Where to file; service upon the parties; form.**

An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on the other parties. An answer of a party represented by counsel or non-attorney representative shall be signed by at least one such attorney or non-attorney representative of record in his/her individual name, whose address shall be stated. A party who is not represented by an attorney or non-attorney representative shall sign his/her answer and state his/her address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of the attorney or non-attorney party representative constitutes a certificate by him/her that he/she has read the answer; that to the best of his/her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this section an attorney or

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non-attorney party representative may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

[61 FR 65331, Dec. 12, 1996]

#### **§ 102.22 Extension of time for filing.**

Upon his own motion or upon proper cause shown by any other party the regional director issuing the complaint may by written order extend the time within which the answer shall be filed.

#### **§ 102.23 Amendment.**

The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the administrative law judge or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the administrative law judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the administrative law judge or the Board.

### MOTIONS

(49 Stat. 449; 29 U.S.C. 151-166, as amended by (61 Stat. 136; 29 U.S.C. Sup. 151-167), (65 Stat. 601; 29 U.S.C. 158, 159, 168), (73 Stat. 519; 29 U.S.C. 141-168), (88 Stat. 395-397; 29 U.S.C. 152, 158, 169, 183))

#### **§ 102.24 Motions; where to file; contents; service on other parties; promptness in filing and response; summary judgment procedures.**

(a) All motions under §102.22 and 102.29 made prior to the hearing shall be filed in writing with the Regional Director issuing the complaint. All motions for summary judgment or dismissal made prior to the hearing shall be filed in writing with the Board pursuant to the provisions of §102.50. All other motions made prior to the hearing, including motions to reschedule the hearing under circumstances other than those set forth in §102.16(a), shall be filed in writing with the chief administrative law judge in Washington, DC, with the associate chief judge in